

**MINUTES OF MEETING
FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #2**

The Board of Supervisors of the Fiddler's Creek Community Development District #2 held a Public Hearing and Regular Meeting on August 28, 2019 at 10:00 a.m., at the Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.

Present at the meeting were:

Elliot Miller	Chair
Victoria DiNardo	Vice Chair
Linda Viegas	Assistant Secretary
Bill Klug	Assistant Secretary
John Nuzzo	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Jason Olson	Assistant Regional Manager
Tony Pires	District Counsel
Terry Cole	District Engineer
Tony DiNardo	Developer
Ron Albeit	Foundation General Manager
Valerie Lord	Foundation Counsel
Shane Willis	Fiddler's Creek Security
Bart Joseph Jackson	Resident
Thomas Power	Resident
Sally Snyder	Resident
Gary and Sandy Carinci	Residents

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 10:00 a.m. All Supervisors were present, in person.

SECOND ORDER OF BUSINESS

Public Comments: Non-Agenda Items

Mr. Bart Joseph Jackson, a resident, stated that he worked with Mr. Miller in an effort to keep the area near Manatee school from being turned into affordable housing. He discussed

Disclaimer: These minutes are a summary of the meeting and are intended to provide highlights of the topics discussed, items considered and actions taken.

his interpretations of the various areas of Naples and the Fiddler's Creek community. He noted problems with contractors dumping materials on the streets in Oyster Harbor, excessive staining, no clean up, etc., which have not been corrected, despite a promise by Taylor Morrison (TM) to clean the roads. He questioned why the District does not require contractors to use the rear entry gate on Sandpiper, which states "contractor access". Mr. Miller stated the Board was sympathetic to these issues but the CDD does not have jurisdiction over this; the issues should be directed to The Foundation. Discussion ensued regarding the lack of a response from Cardinal Management (CM), the last Oyster Harbor HOA meeting, inability to get CM or BrightView Landscape (BrightView) to respond or do anything, the results of a recent HOA survey, the upcoming Oyster Harbor HOA meeting in November regarding issues with CM and TM and actions that might be taken, etc. Mr. DiNardo stated that he would have Mr. Willis contact TM, but emphasized that The Foundation and HOA were not responsible for them.

Mr. Gary Carinci, resident, suggested Mr. Jackson take this to small claims court.

Mr. Nuzzo stated, as an Oyster Harbor homeowner and not as a CDD #2 Board Member, he was willing to meet with Mr. Jackson and bring his concerns to a TM employee who helped him get his house built to his satisfaction.

Mr. Jackson asked about the CDD assessments, noting that TM paid off the bond portion of his assessments, and for an explanation of what entity maintains the common areas. Mr. Miller explained the assessments, responsibilities of a CDD, including infrastructure, streets, street lights, curbs, fountains, etc. Mr. Jackson asked what entity is responsible for removing oil stains in Oyster Harbor. Mr. Miller stated that the CDD is responsible, but suggested Mr. Jackson speak to Mr. Cole, as there are strict regulations for how oil stains can be removed.

Mr. Thomas Power, a resident, recalled that he spoke to Ms. Viegas months ago about the Oyster Harbor oil spill but nothing was done. Ms. Viegas explained in detail what was done since Mr. Power contacted her and the involvement by Mrs. Adams, Mr. Willis, Mr. Cole, etc. She noted that she advised Mr. Power that the area was inspected but, due to the continuing construction in Oyster Harbor it would not be cost effective or a good business decision to replace the pavers at this time. She suggested that residents immediately call security if they know who created the oil spill or to let security know what time it occurred so security can check the cameras and contact the contractor who caused the spill for reimbursement.

Mr. Power asked what was being done to keep construction vehicles from using Sandpiper to enter Oyster Harbor. Mr. Willis discussed security's steps to alleviate the issue of contractors not using the construction entrance and noted that Sandpiper is a public road so GPS directs contractors to Sandpiper rather than the construction road. Mr. DiNardo pointed out that residents seemed to be assuming only contractors caused the oil spills, but others, such as Waste Management, had oil spills; the oil spills were being addressed.

Mr. Jackson noted that contractors had surveyed and staked his home because he wants a generator but when he came back from vacation all the stakes were removed by BrightView. Mr. Miller stated that was not a District issue.

Mr. Nuzzo stated that TM was very proactive regarding the water runoff at the end of Mr. Jackson's street; overall, he believed homeowners were happy.

- **Consideration of Approval to Proceed with Engaging Rating Agency and Paying the Fee of \$15,000 to Rate the 2003A Bonds**

This item, previously the Eighth Order of Business, was presented out of order.

Mr. Miller discussed the bond refinancing and the benefit of obtaining a rating from Standard & Poor's (S&P). Receiving a rating of at least BBB would result in a much lower interest rate than without the rating; the current rate was over 6%. The S&P rating would cost \$15,000. Mr. Klug asked what would happen if an S&P rating is not obtained. Mr. Miller stated the interest rate would be higher.

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, authorizing engagement and payment of \$15,000 to obtain a rating from Standard & Poor's, was approved.

THIRD ORDER OF BUSINESS

Special Counsel Update

Mr. Miller stated there was no Special Counsel update but the parties were working towards settlement of the interpleader case and all associated disputes.

FOURTH ORDER OF BUSINESS

Health, Safety and Environment Report

Regarding hurricane emergency preparedness, Mr. DiNardo recalled discussion at the last meeting about The Foundation's plan to purchase a portable generator for the pump

station to help the County; however, Mr. Willis was advised by the Collier County Utilities Chief Engineer that it was not possible. An interlocal agreement between the County and both CDD #1 and CDD #2 might help advance this project; Mr. Willis and others were willing to be trained to operate the system. The County wants the Federal Emergency Management Agency (FEMA) to install generators on all the lift stations, but that could take years. Mr. Willis stated that the County objected to the generator due to liability concerns.

Discussion ensued regarding other governmental programs that would allow the Districts to install a permanent generator at the pump station, authorizing Mr. Pires to talk to the County about an interlocal mutual aid and disaster agreement that would indemnify the County, the process of obtaining an interlocal agreement, what the agreement would accomplish and enable the Districts to do, the agreement being between the County and the Districts with The Foundation being the Districts' contractor providing the portable generator, applying for government grants and/or funding for the purchase of a permanent generator, the County's preference to enter into an agreement with the CDDs either because they are governmental agencies rather than a private entity or because public utilities are involved, etc.

Mr. Pires stated that CDD #1 felt positive about this approach and the Chair would speak with some of his contacts at the County. Mr. Pires suggested that he, Mr. Cole and Mr. Willis meet with County personnel to discuss the benefits of allowing the generator.

On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, entering into a tri-party interlocal agreement between CDD #1, CDD #2, and the County for a mobile generator, with The Foundation as the contractor for the Districts, was approved.

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, applying to the South Florida Water Management District, the State, and other governmental agencies for funding for the purchase of a permanent generator, was approved.

Mr. Willis distributed an updated version of his PowerPoint presentation and highlighted the following:

- The main gate was still receiving emergency calls; residents should call 911 for medical emergencies. An e-blast reminder would be sent.

- Gatehouse access was 33,000 for July, with an average of 7,000 per week, which was up from 4,500 in June, when the gates were down for a few weeks.
- Weekly occupancy averaged 1,560 year to date, which was up by 221/week from last year.
- Patrol Mileage: 41,000 miles year to date.
- There were 171 incident reports in July. The number was up due to the Traffic Hawk identifying speeders and the fining committee initiating fining for speeding violations.
- Pressure Cleaning: 20,000' of sidewalk and 50,000' of curbs were cleaned in July. Mr. Willis would advise Mrs. Adams of when the crew would clean Sandpiper.
- Nuisance Animals: Six pythons and 205 cane toads were caught in July.
- Upcoming Programs:
 - ✓ One security officer would attend an animal control training program in October.
 - ✓ 55 extra Sheriff patrols occurred when the Championship gate was down due to being struck by lightning.
 - ✓ One Security officer would attend the Community Emergency Response Team conference in September.
 - ✓ Staff will continue to lock up the irrigation boxes.

Ms. Viegas thanked Mr. Willis for disseminating the "Who to Call" list that they worked on and asked that the street signs and lake items, that she previously requested, be included in the next email. She stated that, when The Foundation was taking over irrigation management, it was noted that Mr. Willis and the security officers were supposed to be trained on what to do if there is a broken head or break. Mr. DiNardo clarified that the main thing The Foundation would do is maintain the satellites and, if something is observed, it would be communicated, but security would not check for broken heads. It was noted that security would be trained to turn the system off if major things break, such as main and check valves. Ms. Viegas questioned why the "Who to Call" list directed residents to call the property management companies for main irrigation breaks; it should be changed to direct them to contact security for major/main breaks. Mr. DiNardo stated that the new Segway patrols should enable officers to see more breaks and address them; residents should not call security regarding broken heads, etc.; calls should only be for main breaks.

FIFTH ORDER OF BUSINESS**Developer's Report/Update**

Mr. DiNardo reported the following:

- The Publix developer thinks the store would not open in October 2020; rather, it will more likely be February or March 2021.
- The models being built on Dorado Lane would likely be done in October 2020.
- It was hoped that the single-family models that are starting in Oyster Harbor would be done by December 2020.

Ms. Viegas recalled Mr. DiNardo previously stating that Publix only opens stores in October and asked if that changed. Mr. DiNardo stated he was relaying information from the Publix representative. Mr. Miller believed that was good news because it would delay funding the traffic light. Mr. DiNardo stated he still wanted to proceed with the same time frame for the Sandpiper gatehouse and other Sandpiper improvements needed for the commercial property.

SIXTH ORDER OF BUSINESS**Engineer's Report: *Hole Montes, Inc.***

Mr. Cole presented Requisition #154 for \$10,498.50; \$5,635 for the Amaranda street lights and \$4,863.50 for the retainage for the Sandpiper concrete wall.

Mr. Cole reported the following:

- The rain-related Aviamar street puddling was still being reviewed; the areas would be cut and repaired after the rainy season.
- Follow up was underway with TM regarding a lot just past the Veneta fountain with some ruts, sod and tree replacement issues that must be addressed and completed.
- An updated draft Engineer's Report for the Series 2005 bond that was refinanced as the Series 2014-2 bond for Phase 3 of CDD #2 was distributed.

Mr. Cole noted the following related to the new Report:

- ✓ Settlement funds of \$1.35 million were being put into the bond construction fund.
- ✓ This Report reflects the contraction of 210 acres to TM; exhibits to match the new acreage were pending.
- ✓ The proposed amount was an additional \$1.7 million, primarily related to final acceptance of items within Phase 4, Units 2 and 3, and Phase 5, Unit 2 project areas, and

proposed work including infrastructure to support the permanent gatehouse on Sandpiper Drive and including the traffic signal on US 41, with half of the \$600,000 cost being funded by CDD #1. Funding would be comprised of \$1.35 million from the litigation settlement funds, \$50,000 from the remaining proceeds in the bond, and \$300,000 from CDD #1 for the traffic light, once it is installed. If approved by the Florida Department of Transportation (FDOT), the light would be installed in 2022.

➤ All line items on Page 17 were increased due to the Sandpiper modifications related to the new commercial property that will include the Publix store.

Mr. DiNardo stated The Foundation would build the new Sandpiper gatehouse using funds from the Delta account; drawings should be presented at the next meeting.

Ms. Sally Snyder, a resident, asked for the gate's new location. Maps were shown and discussion ensued regarding routes of Publix trucks, loading and unloading, Publix trucks entering through the new Sandpiper gate and using The Foundation's road to reach the commercial location, CDD roads being public roads so vehicles cannot be kept off of them, the inability of the CDD to fund private roads, etc.

➤ All amounts in the Report were cost estimates and the Developer would cover any overages.

➤ The Report was an update to the 2012 Engineer's Report and was in draft form as updated exhibits were pending.

Mr. Miller asked if there were any public comments.

There were no public comments.

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, the Revised Engineer's Report, with an increase of \$1.7 million, was approved.

SEVENTH ORDER OF BUSINESS

Consideration of Proposals for Landscape Renovations: Plant Fill-Ins

Mr. Olson distributed a new map absent of the areas that would be under construction. The new proposals from GulfScapes Landscape Management Services (GulfScapes) and LandCare were approximately \$3,000 less than the ones presented at the last meeting, with GulfScapes being the lowest.

Mr. Klug asked how the list of plants was compiled. Mr. Olson stated that GulfScapes developed the list and he reviewed it. Regarding the proposals, Mr. Miller asked if quality was the same. Mr. Olson replied affirmatively.

On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, the GulfScapes Landscape Management Services Proposal for landscape fill-ins, was approved.

Ms. Sandy Carinci, a resident, stated that CDD property next to her building was not being maintained, despite numerous requests over at least two years, and there were issues with the extensive growth of the littoral grasses in the lake behind her home. Mr. Olson would inspect the area next to her building. Mrs. Adams stated that the lakes were inspected repeatedly. The littoral shelf extends out into the lake, as required, and then drops off; therefore, grasses cannot grow beyond the littoral shelf, as they would die in the water, as evidenced by vegetation on the outer edges of the shelf drowning and dying naturally during the rainy season.

EIGHTH ORDER OF BUSINESS

Consideration of Approval to Proceed with Engaging Rating Agency and Paying the Fee of \$15,000 to Rate the 2003A Bonds

This item was presented following the Second Order of Business.

NINTH ORDER OF BUSINESS

Public Hearing on Adoption of Fiscal Year 2019/2020 Budget

A. Proof/Affidavit of Publication

The affidavit of publication was provided for informational purposes.

B. Consideration or Resolution 2019-05, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2019, and Ending September 30, 2020; Authorizing Budget Amendments; and Providing an Effective Date

Mr. Adams presented the following edits to Resolution 2019-05, submitted by Ms. Viegas after the last meeting:

Page 2, Section 1c: Change "2019" to "2020"

Page 2, Section 2: Change "October 1, 2018" to "October 1, 2019"

Page 2, Section 2: Change "September 30, 2019" to "September 30, 2020"

Page 3, Section 3, First Paragraph: Insert "(sixty)" after "60"

Page 3, Section 3, Last Paragraph: Insert "(five)" after "5"

Mr. Adams and Mr. Pires responded to questions posed by Mr. Miller, as follows:

- The "funds" referred to in the Resolution were the General, Debt Service and Construction funds.
- The authority given to the District Manager in Section 3b, which allows the District Manager to increase or decrease a budget line item without the Board's approval for an emergency expense, is included because it is allowed under the law but it has never been necessary. Generally, Staff presents proposals, if outside of a previously approved contract, and, at year end, a budget amendment would be done, if necessary.
- Section 3d is covered in Statutes 190 and 189, which relates to the budget and unforeseen expenses that would require a budget amendment.
- Per the terms of the last paragraph of Section 3, on Page 3, the required administrative procedures were established.

Mr. Adams reviewed edits on Pages 8 and 9, submitted by Ms. Viegas, regarding the Debt Service principal and interest amounts not matching; Ms. Alice Carlson, of AJC Associates, Inc., would revise the amortization schedules.

The following changes were made to the Fiscal Year 2020 budget:

Page 5, "Landscaping services", "Other contractual": Delete "tree trimming" and change "Maintenance contract" to "Maintenance contracts"

Page 5, "Access control services", "Contractual services": Mr. Adams would modify the portion of the verbiage after "program", as necessary, as related to the turnover of access control to The Foundation beginning January 1, 2020 and irrigation.

Page 35: The spreadsheet cell would be opened so all lines appear.

Page 8, Note 1: Change "2019" to "2020" and add "and fiscal year 2018" after "2017"

Mr. Miller opened the public hearing.

No members of the public spoke.

Mr. Miller closed the public hearing.

On MOTION by Ms. DiNardo and seconded by Ms. Viegas, with all in favor, the Resolution 2019-05, as amended, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2019, and Ending September 30, 2020, as amended; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

TENTH ORDER OF BUSINESS

Consideration of Resolution 2019-06, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2019/2020; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date

Mrs. Adams presented Resolution 2019-06. There were no comments.

On MOTION by Mr. Klug and seconded by Ms. DiNardo, with all in favor, the Resolution 2019-06, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2019/2020; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.

ELEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of July 31, 2019

Mrs. Adams distributed a revised Financial Highlights page and presented the Unaudited Financial Statements as of July 31, 2019.

Mr. Miller noted that the Tax Collector charges 2% and the amount paid to the Tax Collector was at 97% of budget, which totaled 99%, and asked where the missing 1% was. Mr. Adams stated the Tax Collector typically bills its services in advance and reconciles the actual cost at the end of the year, which usually results in a credit to the District in November or December. Discussion ensued regarding how much the District could possibly receive in a credit; Mr. Adams would review the amounts and email his findings before the next meeting.

TWELFTH ORDER OF BUSINESS

Consideration of Minutes

- **July 24, 2019 Regular Meeting**

The following changes were made:

Line 69: Change "right" to "obligation"

Line 76: Change "would" to "could"

Line 89: Change "must" to "may need to"

Line 91: Insert ", if there was a breach" after "clause"

Line 137: Insert "contractor" after "Foundation's"

Line 139: Insert "for hurricane recovery" after "equipment"

Line 142: Change "could" to "might"

Line 144: Change last sentence to "The Foundation has the obligation to the community for hurricane recovery and arbor care and Juniper has the obligation to The Foundation."

Line 180: Change "finance" to "make installment payments on"

Line 207: Change "from the agreement" to "in the interim agreement"

Line 226: Change "writing off" to "expensing"

Line 242: Insert "internal controls" before "standards"

Line 283: Insert "2005" after "proposed"

Line 309: Change "Foundations" to "Foundation"

Line 527: Change "reclass" to "reclassification"

Line 574: Change "Mrs. Adams" to "Ms. DiNardo"

<p>On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, the July 24, 2019 Regular Meeting Minutes, as amended, were approved.</p>

Mr. Miller stated that the numbers on the Exhibit to the July 24, 2019 meeting minutes were modified today by Mr. Cole's report and the District having \$1.35 million from the Settlement Agreement.

- **July 25, 2019 Continued Meeting**

The following changes were made:

Line 52: Change "the receiving investor" to "Fiddler's Creek Investor"

Lines 52 and 69: Change "upon" to "between"

Lines 63 and Line 75: Insert "to" after "up"

Lines 80 and 85: Insert "up to" after "use"

Line 101: Insert ", Inc.," after "FMSbonds"

Line 103: Delete "the"

Line 106: Change "pay" to "paying" and insert "in" after "million"

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, the July 25, 2019 Continued Meeting Minutes, as amended, were approved.

THIRTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: *Woodward, Pires and Lombardo, P.A.*

Mr. Pires reported the following and responded to questions:

- Interim Tree Pruning Agreement was sent to Mr. Miller but could not be opened. The Foundation, District Counsel and CDD #1 reviewed and approved it; one formatting adjustment was necessary.

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, authorizing the Chair to execute the interim agreement, subject to his review, was approved.

Mr. Cole stated that the exhibits would be sent to Mr. Pires.

- Long-Term Agreement: Mr. Miller reviewed the agreement and had an insurance concern. Mr. Pires would update the agreement.
-

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, authorizing Mr. Miller to execute the long-term agreement, subject to his review, was approved.

- The Tract E turnover agreement was given to Mr. Woodward this morning.
- A copy of an order imposing sanctions against an attorney and a plaintiff for numerous ADA cases was distributed for informational purposes. This had no bearing on the case against CDDs #1 and #2 that was settled.

> The letter to the contractor regarding the oil spills on Sandpiper and into Oyster Harbor was not sent yet because, after a discussion with Mrs. Adams, some items were being changed.

B. District Manager: *Wrathell, Hunt and Associates, LLC*

- **NEXT MEETING DATE: September 25, 2019 at 10:00 A.M.**

The meeting will be held September 25, 2019 at 10:00 a.m.

C. Operations Manager: *Wrathell, Hunt and Associates, LLC*

Mrs. Adams distributed her Monthly Field Operations Report and Mr. Olson's Field Operations report was included in the agenda package.

Mr. Olson distributed a proposal from Architectural Fountains, Inc., to retrofit the Aviamar fountain control panel, which was discussed at a previous meeting.

On MOTION by Ms. DiNardo and seconded by Ms. Viegas, with all in favor, the Architectural Fountains, Inc., proposal to retrofit the Aviamar fountain control panel, was approved.

FOURTEENTH ORDER OF BUSINESS

Supervisors' Requests

There being no Supervisors' requests, the next item followed.

FIFTEENTH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the meeting adjourned.

On MOTION by Ms. DiNardo and seconded by Mr. Klug, with all in favor, the meeting adjourned at 12:08 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair